

\*\*E-Filed 4/20/2011\*\*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

RALPH JENKINS,

Plaintiff,

v.

SAN JOSE, et al.,

Defendants.

Case Number 05:11-cv-0588 JF/HRL

ORDER<sup>1</sup> ADOPTING REPORT AND  
RECOMMENDATION TO DISMISS  
WITH LEAVE TO AMEND;  
DENYING WITHOUT PREJUDICE  
MOTION TO PROCEED *IN FORMA*  
*PAUPERIS*

[RE: Doc. No. 2, 3, 5]

On February 8, 2011, Plaintiff Ralph Jenkins, proceeding *pro se*, filed a complaint and an application to proceed *in forma pauperis*. On September 8, 2010, Magistrate Judge Howard R. Lloyd filed a Report and Recommendation, in which he concluded that the action should be dismissed with leave to amend for failure to state a claim upon which relief may be granted. Plaintiff appears to allege acts of extortion by current or former employees of the San Jose Police Department or the California Department of Corrections. However, Judge Lloyd determined correctly that the allegations of the complaint do not present facts or legally coherent theories of liability establishing a federal claim for relief.

Pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), and Civil L.R. 72-3, this Court concurs with and adopts in its entirety Judge Lloyd's Report and Recommendation. Accordingly, the action will be dismissed with leave to amend and the application for leave to proceed *in forma pauperis* will be denied without prejudice. Any amended complaint must be

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<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 filed within thirty (30) days of the date of this order.

2 IT IS SO ORDERED.

3 DATED: 4/20/2010

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JEREMY FOGEL  
United States District Judge

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

11 RALPH JENKINS,

12 Plaintiff,

13 v.

14 SAN JOSE POLICE, et al.,

15 Defendant.  
16

Case Number 5:11-cv-0588 JF/HRL

CERTIFICATE OF SERVICE

17  
18 I, the undersigned, hereby certify that I am an employee of the Office of the Clerk,  
19 United States District Court, Northern District of California.

20 On April 20, 2011, I served a true and correct copy of the attached document to each of  
21 the persons hereinafter listed by placing said copy in a postage paid envelope and depositing said  
22 envelope in the United States mail, or by placing said envelope in the outgoing mail delivery  
receptacle located in the Clerk's Office:

23 Ralph Jenkins  
24 301 E Santa Clara Street  
San Jose, CA 95113

25 DATED: April 20, 2011

26 For the Court  
Richard W. Weiking, Clerk

27 By: \_\_\_\_\_/s/  
Diana Munz  
28 Courtroom Deputy Clerk